

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency

P.O. Box 2415

Washington, DC 20013-2415

Notice FC-12

For: State and County Offices

Jr

Conflicts of Interest on Farm Credit Program Loans

Approved by: Administrator

Grand Buntrock

I Overview

A

Background

As a result of the merger of the former Farmers Home Administration farm programs into FSA, issues have arisen involving loans to relatives and business associates of employees, inventory property, management of financial institutions, cosigners, doing business with borrowers, and doing business with the Agency.

B

Purpose

This notice informs offices of the actions necessary as a result of the establishment of FSA policies on conflict of interest issues. This notice is intended to ensure that objectivity is maintained in FSA Farm Credit Programs loan making and servicing decisions and to minimize appearances of conflict or the possibility of improper personal gain.

C

Contact

If there are any questions about this notice, contact your Area Director.

D

Filing
Instructions

File copies of this notice preceding FmHA Instructions 1900-D and 2045-BB, where available. If not available, then file along with 5 CFR Part 2635, "Standards of Ethical Conduct for Employees of the Executive Branch."

Disposal Date

January 1, 1997

Distribution

State Offices; State Offices relay to County
Offices and Ag Credit Teams

2 Action

A

Employee
Survey

To implement the provisions of this notice, SED's shall take the following action.

Step	Action
1	<p>Conduct a survey of employees to determine the existence of the following:</p> <ul style="list-style-type: none"> • loans to Agency employees and COC members if this has not already been done; see Notice FC-2 • loans to close relatives of FSA employees; see subparagraph 2 B for the definition of close relative • loans where an employee is a cosigner on another person's or entity's loans • a business relationship between an employee and a borrower • loans to STC members • an investment or managerial role by an employee or a close relative of an employee in a firm doing farm credit business with FSA.
2	<p>Determine and report to the Administrator through the Area Office by January 12, 1996, the existence in their State of the following:</p> <ul style="list-style-type: none"> • a business relationship between an FSA Farm Credit Program borrower and SED or STC member; the report shall identify the employee, his or her position, the borrower, and the nature of the relationship • whether SED, any STC member, or close relatives of either, is an officer or director or principal stockholder or other principal owner with a substantial financial interest in a financial institution that is active in the FSA Guaranteed Loan Program; identify the employee, his or her position, the lending institution, the extent of the employee's investment, or the level of management control maintained by the employee or the employee's relative • an interest by SED or an STC member in a firm doing farm credit business with FSA. Identify the employee, his or her position, the firm, the extent of the employee's investment, the level of management control maintained by the employee or the employee's relative, and the business relationship with the Agency.

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2 Action (Continued)

B

Definition of Close Relative

For the purpose of this notice, a close relative is defined as the following:

- Spouse • Grandparents • Grandchildren • Parents
- Uncle • Aunt • Siblings • Niece
- Nephew • Children • First Cousin

This definition includes step and in-law relationships and people with close personal associations with the employee.

C

Employees as Cosigners

Cosigners are considered borrowers under FSA Farm Credit Program regulations. Therefore, if an employee is a cosigner for an FSA loan, the loan for which the employee cosigned will be handled as if the employee is the primary recipient of the assistance. An employee may cosign for a direct annual operating loan for an additional 3 years, as long as that employee is a cosigner on that borrower's original promissory notes. An employee cannot cosign for a direct loan after September 30, 1998, unless the loan is a direct emergency (EM) loan.

In the interim, until FSA regulations and procedures are issued, employees may cosign for guaranteed loans. If an employee cosigns for a guaranteed loan, that loan will be serviced outside of the employee's farm credit service area.

D

Loans to Employees and Relatives of Employees

Section 2045.1355 (h)(1) of FmHA Instruction 2045-BB prohibits all loans to employees except section 502 Rural Housing loans. This provision does not apply to FSA employees. FSA's policy is that an employee (not including COC members) or a close relative of an employee that resides in the same household may receive FSA farm credit assistance only in the form of direct EM loans, direct youth loans, and guaranteed loans.

For those in the employee's household who have existing direct loans, they may be considered for annual operating loans through September 30, 1998. Their loans must be serviced outside the employee's farm credit service area according to Notice FC-2.

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2 Action (Continued)

F

**Farm Credit
Emergency
Loans to
Employees**

Only direct farm credit EM actual loss loans may be made to State and County Office employees. EM loans must be processed, approved, and serviced outside the employee's farm credit service area.

G

**Loans to SED's
and STC
Members**

SED's and STC members may retain their direct and guaranteed loans. These loans will be serviced according to FmHA Instruction 1900-D. SED's and STC members will not be eligible for additional direct loans of any kind except for EM actual loss loans. They may receive a guaranteed loan if approved by the Administrator.

Reminder: The prohibition contained in section 2045.1355 (h)(1) of FmHA Instruction 2045-BB does not apply.

Loss claims submitted by a lender holding a guaranteed loan to an SED or STC member will be forwarded to the Administrator for special handling.

H

Bank Ownership

The Administrator may request OGC's advice when SED's or STC members have substantial interest or significant involvement in financial institutions that are active in the guaranteed loan program.

I

**Doing Farm
Credit Business
With FSA**

Potential conflicts may arise when an employee has an investment or relationship with a firm that is doing farm credit business with FSA. Examples may include an employee who is married to a loan officer employed by a lender who is active in making guaranteed loans in the same service area or an employee with an investment in an appraisal firm that is performing appraisals for FSA.

SED's will determine whether any employees in their State have a business relationship with the Agency. After consulting the State's personnel officer or their Regional OGC, SED's will determine the appropriate action to take to remove the potential for conflict and advise the affected employee accordingly.

When SED or STC member is involved, the Administrator will advise the employee of the action required to remove the potential for conflict.

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2 Action (Continued)

J

**Doing Business
With Borrowers**

SED's will determine the existence of business relationships between employees and borrowers. An example may include an employee leasing land to or from a borrower or selling or buying farm supplies or livestock to or from borrowers. An assessment will be made of the involvement and its potential for a conflict of interest. The employee will then be advised of the actions necessary to remove the apparent conflict.

When SED or STC member is involved, the Administrator will advise the employee of the action required to remove the potential for conflict.
